STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RONTEZ DAVALE WILLIAMS, a/k/a RANEZ D. BEST,

Defendant-Appellant.

UNPUBLISHED
February 11, 2000

No. 208838
Recorder's Court
LC No. 94-003937

Before: Bandstra, C.J., and Holbrook, Jr., and Fitzgerald, JJ.

PER CURIAM.

Defendant appeals as of right from his jury trial conviction of possession with intent to deliver 50 or more but less than 225 grams of a mixture containing cocaine. MCL 333.7401(2)(a)(iii); MSA 14.15(7401)(2)(a)(iii). Defendant was sentenced to ten to twenty years' imprisonment. We affirm.

Defendant was a passenger in a car pulled over by the police. When the car began to slow down, defendant jumped out and fled on foot. Defendant was carrying a plastic bag as he ran. After apprehending defendant, the officer who had chased him recovered the plastic bag from where defendant had dropped it. Inside the plastic bag were five separate packets, each containing a substance that later tested positive for cocaine.

Defendant first argues that there was insufficient evidence adduced at trial to support his conviction. We disagree. "When reviewing the sufficiency of the evidence in a criminal case, this Court must view the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find that each element of the crime was proved beyond a reasonable doubt." *People v Griffin*, 235 Mich App 27, 31; 597 NW2d 176 (1999). "Circumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime." *People v Allen*, 201 Mich App 98, 100; 505 NW2d 869 (1993).

Defendant's argument is predicated on the assertion that a separate bag or bags of filler material cannot be aggregated with a controlled substance to create a particular quantity of a mixture containing a controlled substance. While we agree that this is an accurate statement of the law, see, e.g., *People v*

Hunter, 201 Mich App 671, 674-675; 506 NW2d 611 (1993); *People v Barajas*, 198 Mich App 551, 556; 499 NW2d 396 (1993), we do not believe this principle applies in this case.

Contrary to defendant's assertion, the clear import of Lieutenant Kapelczak's testimony regarding the results of his field tests was that each of the five packets tested positive for cocaine. Further, we believe it is reasonable to conclude from the evidence that an already prepared mixture containing cocaine was divided into the separate packets, which in turn were enclosed inside a larger bag. While a defendant cannot be punished for merely having the potential to create the illegal mixture, *Barajas, supra* at 557 n 3, a defendant cannot escape punishment by simply dividing a mixture containing a controlled substance into smaller packages in preparation for sale. *Id.* at 557. Therefore, given that Dr. Switalski testified that the mixture of cocaine weighed in excess of 108 grams, we conclude that there was sufficient evidence adduced at trial to satisfy the requisite weight classification for the crime.

Further, we believe it is reasonable to conclude from the quantity of the cocaine and the manner in which it was packaged that defendant possessed the drug with the intent to deliver. Therefore, viewing the evidence in a light most favorable to the prosecution, *Griffin, supra* at 31, we conclude that a rational trier of fact could have found that the elements of the crime were proved beyond a reasonable doubt.

We also reject defendant's claim that reversal is warranted because the trial court erred in allowing the testimony of Lieutenant Kapelczak regarding his field tests. Not only did defendant fail to preserve this issue for appellate review by raising a timely objection at trial, but defendant has also failed to show that manifest injustice will result if this claim is not reviewed. *People v Burton*, 219 Mich App 278, 292; 556 NW2d 201 (1996).

Affirmed.

/s/ Richard A. Bandstra
/s/ Donald E. Holbrook, Jr.
/s/ E. Thomas Fitzgerald